

VALLEY WATER MANAGEMENT COMPANY

7500 MEANY AVE.
BAKERSFIELD, CALIFORNIA 93308

November 8, 2013

Dane Johnson
Senior Geologist
Central Valley Regional Water Quality Control Board
1685 E Street
Fresno, CA 93706

Re: Response to Notice of Violation for Valley Water Management Company's
Race Track Hill Facility, Edison, Kern County

Dear Mr. Johnson:

Valley Water Management Company (VWMC) is in receipt of the October 9, 2013 Notice of Violation (NOV) and September 18, 2013 Inspection Report for its Race Track Hill Facility, and respectfully submits this response.

This facility is currently regulated by WDR No. 58-349, a permit which has not been updated for over 55 years, since September 18, 1958. Portions of this facility have been in place since the 1950s. As recognized by the WDRs, "this area is characterized by relatively barren hills which are used almost exclusively for livestock grazing" and "there are no fresh water producing wells in this vicinity."

VMWC appreciates that the NOV notes that the facility's "sumps and netting appeared to be in satisfactory condition" and that "[f]reeboard appeared to be adequate in all of the sumps." However, VMWC takes issue with the NOV's finding that "[t]he discharge of wastewater through the sprinkler irrigation system to land is a violation of the WDRs."

The permit expressly allows unlined percolation sumps so long as contained within the disposal area defined as "Sec. 24, T29S, R29E, MDB&M." In addition, the WDRs contain no express prohibition on the use of sprinkler irrigation in lieu of or in addition to percolation sumps, and land application through irrigation is not substantially different than land application to unlined sumps, except that the water is applied more diffusely over a larger ground area. VMWC has been using its sprinkler irrigation system for decades and has not been told that this activity constituted an actual violation of the WDRs.

According to VMWC's files, the Regional Water Quality Control Board for the Central Valley Region (Regional Board) had once tried to raise this issue in a 1987 inspection report and April 4, 1988 Notice of Noncompliance that acknowledged that "[a]round the southern perimeter of Center Canyon wastewater [sic] is used for irrigation of pasture," and initially determined that the "lab results indicated violations" since the salinity levels exceeded those set forth in the

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WDRs. On April 19, 1988, however, the Regional Board sent a follow-up letter stating that “[o]ur notice of noncompliance dated 4 April 1988 was in error.” (Emphasis added.)

Years of inspection reports confirm the same understanding, as shown in the following examples:

- The 1993 Inspection Report states: “The wastewater is then routed to evaporation/percolation sumps in either of the Canyon areas of the facility by gravity flow or sprinklers for disposal to land.” No violations were noted.
- The 1994 Inspection Report states “The analytical results of the samples taken during the inspection indicate the discharge exceeds the numerical water quality objectives of the basin plan for discharges over *useable* ground water.” (Emphasis added.) Because no violations of the WDRs were noted, this indicates an acknowledgement that the local ground water is **not useable**, and so the objectives/limits would not be applicable within the Sec. 24 disposal area.
- The 1996 Inspection Report noted: “Water is also discharged to one of the canyons through sprinkler irrigation” and acknowledged that “wastewater exceeds the numerical limitations” but since the discharge did not extend beyond the disposal area allowed for unlined percolation sumps, “no violations of WDRs No. 58-349 were observed.”
- The 2002 Inspection acknowledged that “Sprinkler systems were being operated to enhance evapotranspiration of the wastewater” and “operation of the facility appeared to be in compliance with the WDRs.”

Now suddenly, in 2013, VWMC is being told that its irrigation system, which has been in place for decades, is somehow violating the WDRs. Based on the regulatory and inspection history, and its understanding of the WDRs requirements, VWMC disagrees that its irrigation practices are violating the WDRs. However, because VWMC is committed to undertake the studies necessary to compile the information needed for a comprehensive Report of Waste Discharge (RWD) so its WDRs may be updated, VWMC requests that the Regional Board issue VWMC a Time Schedule Order under Water Code Section 13300 to provide VWMC with the time needed to conduct and complete studies to determine the area’s background hydrogeology, to identify the beneficial uses and background quality of ground water within and near the project area so that WDRs may be prescribed according to the site specific conditions of Sec. 24, and to provide clarity that VWMC may continue use of its sprinkler systems to enhance evapotranspiration of its wastewater without fear of an enforcement action alleging non-compliance for this activity.

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VWMC is committed to maintaining facilities that are compliant with state requirements to protect useable groundwater, but since the current WDRs have been acknowledged for decades by the Regional Board to be outdated, VWMC would rather proceed in a cooperative manner to move forward with adopting new applicable WDRs, than in an adversarial manner fighting through a contentious enforcement action.

Respectfully submitted,



Larry S. Bight